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HOUSE BILL 805

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Max Coll

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; PROVIDING THAT CERTAIN SEASONAL EMPLOYEES MAY PURCHASE CREDITED SERVICE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-11-4 NMSA 1978 (being Laws 1987, Chapter 253, Section 4, as amended) is amended to read:

"10-11-4. SERVICE CREDIT--REQUIREMENTS FOR--FORFEITURE--REINSTATEMENT.--

A. Personal service rendered an affiliated public employer by a member shall be credited to the member's service credit account in accordance with retirement board rules and regulations. Service shall be credited to the nearest month.

In no case shall [any] a member be credited with a year of service for less than twelve months of service in any calendar year or, except as provided in Subsection E of Section 10-11-7

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1 NMSA 1978, more than a month of service for all service in any
2 calendar month or more than a year of service for all service
3 in any calendar year. In no case shall any member be allowed
4 to purchase service credit unless the purchase is authorized in
5 the Public Employees Retirement Act.

6 B. Personal service rendered an affiliated public
7 employer prior to August 1, 1947 shall be credited to a member
8 if the member acquires one year of service credit for personal
9 service rendered an affiliated public employer.

10 C. Personal service rendered an affiliated public
11 employer after July 31, 1947 but prior to the date the public
12 employer became an affiliated public employer is prior service
13 and shall be credited to a member if:

14 (1) the member acquires five years of service
15 credit for personal service rendered an affiliated public
16 employer; and

17 (2) the member pays the association the amount
18 determined in accordance with Subsection D of this section.

19 D. The purchase cost for each month of service
20 credit purchased under the provisions of this section is equal
21 to the member's final average salary multiplied by the sum of
22 the member contribution rate and employer contribution rate
23 determined in accordance with the coverage plan applicable to
24 the member at the time of the written election to purchase.

25 Full payment shall be made in a single lump-sum amount in

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1 accordance with the procedures established by the retirement
2 board. The portion of the purchase cost derived from the
3 ~~employer~~ contribution rate shall be credited to the [~~employer~~]
4 employer's accumulation fund and shall not be refunded to the
5 member in the event of cessation of membership. In no case
6 shall any member be credited with a month of service for less
7 than the purchase cost as defined in this section.

8 E. Service credit shall be forfeited if a member
9 terminates employment with an affiliated public employer and
10 withdraws the member's accumulated member contributions.

11 F. A member or former member who is a member of
12 another state system or the educational retirement system and
13 who has forfeited service credit by withdrawal of member
14 contributions may reinstate the forfeited service credit by
15 repaying the amount withdrawn plus compound interest from the
16 date of withdrawal to the date of repayment at the rate set by
17 the retirement board. Withdrawn member contributions may be
18 repaid in increments of one year in accordance with the
19 procedures established by the retirement board. Full payment
20 of each one-year increment shall be made in a single lump-sum
21 amount in accordance with procedures established by the
22 retirement board."

23 Section 2. Section 10-11-7 NMSA 1978 (being Laws 1987,
24 Chapter 253, Section 7, as amended) is amended to read:

25 "10-11-7. CREDITED SERVICE--PURCHASE OF SERVICE.--

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1 A. A member who entered a uniformed service of the
2 United States may purchase service credit for periods of active
3 duty in the uniformed services subject to the following
4 conditions:

5 (1) the member pays the association the
6 purchase cost determined according to Subsection [E] F of this
7 section;

8 (2) the member has five or more years of
9 service credit acquired as a result of personal service
10 rendered in the employ of an affiliated public employer;

11 (3) the aggregate amount of service credit
12 purchased [~~under~~] pursuant to this subsection does not exceed
13 five years reduced by any period of service credit acquired for
14 military service [~~under~~] pursuant to any other provision of the
15 Public Employees Retirement Act;

16 (4) service credit may not be purchased for
17 periods of service in the uniformed services that are used to
18 obtain or increase a benefit from another retirement program;
19 and

20 (5) the member must not have received a
21 discharge or separation from uniformed service under other than
22 honorable conditions.

23 B. A member who was a civilian prisoner of war
24 captured while in service to the United States as an employee
25 of the federal government or as an employee of a contractor

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1 with the federal government may purchase service credit for the
2 period of internment as a civilian prisoner of war, provided
3 that:

4 (1) the member provides proof of employment
5 with the federal government or as a contractor to the federal
6 government in a form acceptable to the association;

7 (2) the member provides proof of the period of
8 internment in a form acceptable to the association;

9 (3) the member has at least five years of
10 service credit acquired as a result of personal service
11 rendered in the employ of an affiliated public employer;

12 (4) the aggregate amount of service credit
13 purchased pursuant to this subsection does not exceed five
14 years reduced by any period of service credit acquired for
15 military service pursuant to any other provision of the Public
16 Employees Retirement Act;

17 (5) service credit may not be purchased for
18 periods of service in internment as a civilian prisoner of war
19 if such periods are used to obtain or increase a benefit from
20 another retirement program; and

21 (6) the member pays the association the
22 purchase cost determined according to Subsection [E] F of this
23 section.

24 C. A member who was employed by a utility company,
25 library, museum, transit company or [by-a] nonprofit

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1 organization administering federally funded public service
2 programs, which utility company, library, museum, transit
3 company or nonprofit organization administering federally
4 funded public service programs or federally funded public
5 service programs administered by a nonprofit organization are
6 subsequently taken over by an affiliated public employer, or a
7 member who was employed by an entity created pursuant to a
8 joint powers agreement between two or more affiliated public
9 employers for the purpose of administering or providing drug or
10 alcohol addiction treatment services irrespective of whether
11 the entity is subsequently taken over by an affiliated public
12 employer, may purchase credited service for the period of
13 employment subject to the following conditions:

14 (1) the member pays the association the
15 purchase cost determined according to Subsection [E] F of this
16 section;

17 (2) the member has five or more years of
18 credited service acquired as a result of personal service
19 rendered in the employ of an affiliated public employer; and

20 (3) the aggregate amount of credited service
21 purchased [~~under~~] pursuant to this subsection does not exceed
22 five years.

23 D. A member who was appointed to participate in a
24 cooperative work study training program established jointly by
25 the state highway and transportation department and the

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1 university of New Mexico or New Mexico state university may
2 purchase credited service for the period of participation
3 subject to the following conditions:

4 (1) the member pays the association the
5 purchase cost determined according to Subsection [E] F of this
6 section;

7 (2) the member has five or more years of
8 credited service acquired as a result of personal service
9 rendered in the employ of an affiliated public employer; and

10 (3) the aggregate amount of credited service
11 purchased [~~under~~] pursuant to this subsection does not exceed
12 five years.

13 E. A member who was employed by the legislative
14 branch during a regular session of the legislature and who did
15 not acquire service credit solely because the affiliated public
16 employer designated the employee as seasonal pursuant to
17 Section 10-11-3 NMSA 1978 may purchase credited service subject
18 to the following conditions:

19 (1) the member pays the association the
20 purchase cost determined according to Subsection F of this
21 section;

22 (2) the member has five or more years of
23 credited service acquired as a result of personal service
24 rendered in the employ of an affiliated public employer; and

25 (3) the member may purchase three months of

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1 credited service for each regular sixty-day session in which
2 the member was employed and may purchase two months of credited
3 service for each regular thirty-day session in which the member
4 was employed.

5 [E-] F. Except for service to be used under a state
6 legislator coverage plan, the purchase cost for each month of
7 credited service purchased [~~under~~] pursuant to the provisions
8 of this section is equal to the member's final average salary
9 multiplied by the sum of the member contribution rate and
10 employer contribution rate. The contribution rates and final
11 average salary shall be determined in accordance with the
12 coverage plan and salary history applicable to the member at
13 the time of the written election to purchase. The purchase
14 cost for each year of credited service to be used under a state
15 legislator coverage plan is equal to the sum of the member
16 contribution and an employer contribution of ten times the
17 annual amount of pension per year of credited service under the
18 state legislator coverage plan applicable to the member. Full
19 payment shall be made in a single lump sum within sixty days of
20 the date the member is informed of the amount of the payment.
21 The portion of the purchase cost derived from the employer
22 contribution rate shall be credited to the [~~employer~~]
23 employer's accumulation fund and shall not be paid out of the
24 association in the event of cessation of membership. In no
25 case shall [~~any~~] a member be credited with a month of service

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1 for less than the purchase cost as defined in this section.

2 [F-] G. A member shall be refunded, upon written
3 request filed with the association, the portion of the purchase
4 cost of credited service purchased [~~under~~] pursuant to this
5 section that the association determines to have been
6 unnecessary to provide the member with the maximum pension
7 applicable to the member. The association shall not pay
8 interest on the portion of the purchase cost refunded to the
9 member.

10 [G-] H. A member of the magistrate retirement
11 system who during his service as a magistrate was eligible to
12 become a member of the public employees retirement system and
13 elected not to become a member of that system may purchase
14 service credit [~~under~~] pursuant to the public employees
15 retirement system for the period for which the magistrate
16 elected not to become a public employees retirement system
17 member, by paying the amount of the increase in the actuarial
18 present value of the magistrate pension as a consequence of
19 the purchase as determined by the association. Full payment
20 shall be made in a single lump-sum amount in accordance with
21 procedures established by the retirement board. Except as
22 provided in Subsection [F] G of this section, seventy-five
23 percent of the purchase cost shall be considered to be
24 employer contributions and shall not be refunded to the
25 member in the event of cessation of membership. "

